

## **REMARKS**

### **I. STATUS OF THE DRAWINGS**

The drawings are objected to under 37 C.F.R. §1.83(a). The “one frequency band agile, complementary code keying (CCK) and orthogonal frequency division multiplex (OFDM) modulation-capable radio,” the “data flow structure framework” and the “medium access control (MAC) mechanism” are required to be clearly shown in the drawings or otherwise canceled from the claims. The drawings have been amended to include the aforementioned elements as required. FIG. 2 has been relabeled as FIG. 2B. New FIG. 2A has been added to show the elements recited in the claims. No new matter has been entered as the elements have been provided for in the claims and specification as filed.

As such, it is respectfully requested that the objection to the drawings be withdrawn and the replacement sheet be entered.

### **II. STATUS OF THE SPECIFICATION**

The specification has been amended for consistency in identifying the drawings as amended, FIGURES 2A and 2B. Areas of the specification referring to FIGURE 2, have been amended to refer to FIGURE 2B. The first paragraph has been amended to update the cross-reference to corresponding U.S. patent application no. 10/334,747, filed December 31, 2002, now U.S. patent no. 6,873,611. No new matter is involved. Entry of the amendments to the specification is respectfully requested.

### III. STATUS OF THE CLAIMS

Claims 1-5 are pending in the Application. By this amendment, Claim 5 is being amended. No new matter is involved.

Claims 1 and 2 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,873,611.

Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims.

Claim 5 is also objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant respectfully traverses the rejections and objections and requests allowance of the claims as amended.

#### A. REJECTION UNDER JUDICIALLY CREATED DOCTRINE OF OBVIOUSNESS-TYPE DOUBLE PATENTING

Applicant submits an accompanying Terminal Disclaimer to obviate a double patenting rejection over claims 1 and 2 of U.S. Patent No. 6,873,611 that is commonly owned with this application. Accordingly, grounds for the rejection under the judicially created doctrine of obviousness-type double patenting for Claims 1 and 2 are removed.

**B. OBJECTION TO CLAIMS 3-5**

Claims 3-5 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As mentioned above, Applicant submits an accompanying Terminal Disclaimer to obviate a double patenting rejection of claims 1 and 2. As such, claims 1 and 2 are believed allowable. Dependent claims 3-5 are also believed allowable as now being dependent upon allowable claims 1 and 2. Applicant respectfully requests withdrawal of the objection to claims 3-5.

**C. REJECTION UNDER 37 CFR 1.75(c)**

Claim 5 was rejected under 37 CFR 1.75(c) as being of improper dependent form for allegedly failing to further limit the subject matter of a previous claim. Claim 5 has been amended in independent form for purposes of advancing prosecution of the present application. Since claim 5 no longer depends from claim 2, claim 5 is believed to be allowable. Accordingly, Applicant respectfully requests withdrawal of the rejection against claim 5 under 37 CFR 1.75(c).

#### IV. CONCLUSION

The above-discussed amendments and remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

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Attachments